

The Solicitors' Journal

VOL. LXXXIX

Saturday, January 27, 1945

No. 4

CONTENTS

CURRENT TOPICS: Reform of the Bar—Education for the Bar—War Damage: Value Payments—Stopping up of Highways—Alternative Remedies and Contributory Negligence—Company Accounts: Disclosure—Rental Value of Amusement Park—Post-War Housing—Conditions of Employment—Essential Work: Notice of Termination—Recent Decisions	37	PRACTICE DIRECTION	44
TRUSTS FOR SALE AND POWERS TO POSTPONE ..	40	BOOKS RECEIVED	45
A CONVEYANCER'S DIARY	40	ANNUAL MEETING OF THE BAR	45
LANDLORD AND TENANT NOTEBOOK	42	SOCIETIES	45
TO-DAY AND YESTERDAY	43	NOTES OF CASES—	
CORRESPONDENCE	44	Blake, <i>In re</i> ; Clutterbuck v. Bradford ..	46
OBITUARY	44	Jones v. Lowe	46
		R. v. Durham, J.J., <i>ex parte</i> Laurent ..	46
		PARLIAMENTARY NEWS	47
		WAR LEGISLATION	48
		NOTES AND NEWS	48
		STOCK EXCHANGE PRICES OF CERTAIN TRUSTEE	
		SECURITIES	48

CURRENT TOPICS

Reform of the Bar

It is good to hear that the Bar, which is traditionally, but wrongly, considered, as we have always thought, to be opposed to reform, carried by an overwhelming majority at its annual meeting, on 19th January, a resolution inviting the Bar Council "to consider the present structure of government of the legal profession." The mover of the resolution, Mr. M. R. NICHOLAS, put forward a strong case, instancing the proposed transfer of jurisdiction in workmen's compensation cases from the county courts to departmental tribunals as an illustration of how, at the present time, the courts of law in this country "have very largely lost, and are irretrievably losing, their place in the esteem of the public as the proper place in which the rights of the subject against the State may be discovered and the rights of subjects against other subjects may be decided." He said that the Bar Council was advisory and consultative, but if it were a self-governing body it could make the necessary change in order to enable people to enforce their rights in the proper place. It seems that this resolution must be linked with another resolution, which was accepted, urging the Bar Council to continue to make the fullest possible contribution towards the establishment of a system of legal aid so that no one will be denied justice by lack of means. At least one of the causes which has led to the transfer of the functions of the courts to officials of Ministries has been the cost of litigation, which gives an undue advantage in litigation to those possessed of ample means. These resolutions are certainly steps in the right direction.

Education for the Bar

ONE of the resolutions to have been moved at the annual meeting of the Bar on 19th January invited the Bar Council to "request the Council of Legal Education, The Law Society, and the authorities of the Universities to consider the co-ordination and improvement of legal education." The motion was withdrawn on the Attorney-General pointing out, and the mover agreeing, that it would be more appropriate to address actual suggestions to the Council of Legal Education. It is not so long since The Law Society put its house in order in regard to compulsory attendances at lectures. As to the syllabus of The Law Society, accompanied by its lengthy period of active apprenticeship, few serious critics will be found. As regards both theoretical and practical training for the Bar, matters have not yet reached this satisfactory stage. This is not surprising, for the excellent work done by the Council of Legal Education dates back only to 1852. Before that date the Inns of Court were the subject of two inquiries by parliamentary committees which had made it clear that

"education by dinner" was unsatisfactory. The examination in law between 1688 and 1832 consisted in reading from a paper in the presence of the Bench the mystic words "I say that the widow shall have her dower." Both the lectures and the examinations nowadays are admirable, but there is still a lack of any substantial practical training. Reading in chambers is merely "recommended"; lectures, among which are many of a practical nature, are not even "recommended." That is perhaps reading the Consolidated Regulations of the Inns somewhat too literally, but it is true that there is too little compulsion about legal education for the Bar. With regard to co-ordination, the Society of Public Teachers of Law have done much, but much remains to be done before the recommendations of the Lord Chancellor's Committee of 1934 on this subject are fully implemented. The whole subject of educational reform at the Bar is important now, and will become of increasing importance in the future.

War Damage: Value Payments

LORD MESTON initiated a useful exploratory debate in the House of Lords on 17th January on the question of the basis of the assessment of value payments of compensation for war damage. He pointed out that prices of building and materials and labour had risen from 60 to 100 per cent. since 31st March, 1939, the date by which prices and values should be ascertained for calculating the amount of a value payment, and no one knew the level to which prices would rise after the war. He referred to the power of the Treasury to recommend the increase of value payments after the war, and expressed a hope that any increase recommended would be retrospective to cover value payments now being determined by the War Damage Commission and agreed upon between the Commission and the appropriate parties. LORD CHESHAM supported LORD MESTON, and also raised the point that a recipient of cost of works payments was required to build on the same site. If the local authority prevented him from doing so, his compensation was automatically reduced to a value payment. The Lord Chancellor explained that the basis of values and prices as at 31st March, 1939, was chosen because unequal consequences would follow if the date of the damage were selected. His lordship gave the assurance on behalf of the Treasury that if, under s. 11, an adjustment order was made, the operation of that adjustment order would be retrospective. He added that he was also authorised to say that s. 20 of the 1943 Act was, and was likely to remain, a dead letter as no direction had been given, and no direction would be given, to the Commission to apply the condition to a value payment that the money, when received, must be

invested in a new building. Finally, his lordship said that the whole question of allowing recipients of cost of works payments to rebuild on alternative sites was under consideration, and he hoped that a conclusion would be reached and announced without undue loss of time.

Stopping up of Highways

THE Requisitioned Land and War Works Bill, cl. 14, will enable the Minister of War Transport, if and when the Bill becomes law, to authorise the permanent stopping up or diversion of a highway where it has been stopped up or diverted in the exercise of emergency powers. It appears that the Air Ministry alone has made more than a thousand orders to close footpaths and rights of way since the war began. Steps have been taken, according to Sir LAURENCE CHUBB, secretary of the Commons, Open Spaces and Footpaths Preservation Society, in an interview with a representative of the *Observer* (14th January), to consult the various bodies representing local authorities, as well as his own society, in connection with cl. 14 of the Bill, and concessions have been gained in regard to the procedure. The object of the provision, according to the explanatory memorandum prefixed to the Bill, is "to permit of the retention of the airfields or factories." If written notice of objection to the order is given to the Minister by a person claiming to be affected, the order must be referred for report to the War Works Commission, to be set up under the Bill. The Minister will be able, however, to proceed in spite of any adverse report by the Commission; in such a case he will be required to lay a copy of the report and a statement of his reasons for rejecting it before Parliament. Although the order under cl. 14 may provide for a substituted highway, it is felt that the Bill in its present form provides insufficient safeguards for public rights, and moreover the provision in cl. 20 (1), that a highway may be kept stopped up or diverted for two years from the end of the war period, even where the stopping up or diversion is no longer required for war purposes, operates against the public interest, which requires the opening up of as many footpaths and rights of way as possible as soon as convenient after the end of the war. The problem, as the *Observer* correspondent rightly remarks, "concerns all the coloured, all the broad-acred counties, which have given up their meadow and their moorland to the demands of war: whether to industry, to the Army, or to the Air Forces."

Alternative Remedies and Contributory Negligence

THE Departmental Committee on Alternative Remedies, appointed on 19th July, 1944, under the chairmanship of Sir WALTER T. MONCKTON, K.C., has now issued an interim report. It states that the Lord Chancellor gave evidence on 25th October, 1944, to the effect that a Bill would be introduced at the beginning of this session to abolish the common law rule as to contributory negligence and substitute a new rule under which a plaintiff guilty of contributory negligence would divide his loss between himself and the defendant according to the degree on which each was at fault. His lordship desired the opinion of the committee whether the Bill should make any special provision for the case of actions by workmen, whether brought against their employers or others. In introducing the Law Reform (Contributory Negligence) Bill in the House of Lords on 17th January, the Lord Chancellor said that cl. 2 was drafted in accordance with the unanimous recommendations of the committee. These recommendations are that there should be excluded from the Bill: (a) any action brought by a workman, his personal representatives, or his dependents, against his employer claiming damages for breach of the employer's duty to take care for the workman's safety, whether that duty arises at common law or under statute, and (b) any action brought by a workman, his personal representatives, or his dependents, under the Employers' Liability Act, 1880. The report further recommends that there should be excluded from the Bill any action brought by an employer against his workman claiming damages for any breach of duty committed by the workman

in the course of his employment. Actions, however, which are brought by workmen against persons other than their employers should not, it is recommended, be excluded from the Bill. Finally, it is recommended that a provision should be inserted in the Bill empowering the court under s. 30 of the Workmen's Compensation Act, 1925, to apportion the blame between the workman and the person other than the employer, and to order that person to indemnify the employer (or the person claiming an indemnity under s. 6) according to his degree of fault. The report sets out the reasons for these proposals, which are mainly concerned with the disadvantages which might accrue to the workman and to the employer respectively if the new rule were applied to certain cases of election falling within s. 29 of the Workmen's Compensation Act, and the probable absence of such disadvantages if it is applied to cases falling under s. 30.

Company Accounts : Disclosure

ALL who believe that frankness is the basis of commercial honesty, and that the voluntary application of this simple principle to company matters will dispense with the need for elaborate alterations in the law, will be glad to read of the recent recommendations of the Council of the Institute of Chartered Accountants to its members on the form of company accounts. Not long ago a prosecution succeeded against a director who was a party to a prospectus that was alleged to be false in a material particular (*R. v. Kylsant* [1932] 1 K.B. 443) in which evidence was called for the defence to the effect that opinions of accountants might vary considerably on questions as to the valuation of fixed assets and of goodwill. Such questions are also highly relevant to the question whether a dividend is paid out of profits and therefore legal (see *Dovey v. Cory* [1901] A.C. 477). The Council's recommendations, if generally followed, will make for a greater approximation to truth in company documents than has hitherto been thought possible. They recommend that provisions for depreciation, amortisation, and depletion of fixed assets should be applied on consistent bases from one period to another, and they lay down the principles on which depreciation should be assessed in the various types of case. Where practicable, fixed assets in existence at the balance sheet date should normally be shown in the balance sheet at cost and the aggregate of the provisions for depreciation, amortisation and depletion should appear as deductions therefrom. They state that details of all fixed assets should be kept (preferably in registers specially maintained) to show the cost of each asset, the provisions made for its depreciation, and the basis of the provisions made. Amounts set aside out of profits for obsolescence which cannot be foreseen or for a possible increase in the cost of replacement are matters of financial prudence. Neither can be estimated with any degree of accuracy. They are in the nature of reserves and should be treated as such in the accounts.

Rental Value of Amusement Park

AN interesting case before the General Claims Tribunal on 13th and 14th December, 1944, is reported in the *Estates Gazette* for 6th January. The claim was for a total annual rental of £2,280 for buildings including a ballroom, and a car park, forming part of an amusement park at a seaside resort, based on estimated rentals varying from 1s. 3d. per square foot for the ball-room to 6d. for the covered garage. It was admitted that values had slumped badly after the retreat from Dunkirk, but in 1941, it was stated, many residents returned, and in 1942 the claimants were actually considering reopening for August, September and October, and they had an offer for the ballroom. In February, 1942, certain adjoining buildings covering 33,103 square feet were let by the claimants to a raincoat company at a rent of about 9d. a square foot. It was contended for the authority that the ballroom could only be used as a store for furniture, and that it was not suitable for a factory because the maple sprung dance floor would have to be protected or taken out if heavy machinery were to be installed. On the proper construction of *S.R. & O.*,

1942, No. 837, limiting storage charges, it was contended that the maximum charge for the storage of furniture was 7s. per week for 1,000 cubic feet, as the owner would be allowed only "the minimum space" necessary for reasonable access to the goods. An argument put forward on behalf of the claimant in reply was that to say that there was no demand for the claimant's premises was not a proper way of looking at the matter. Under s. 2(1)(a) of the Compensation (Defence) Act, 1939, it was contended, one had to assume that there was, in fact, a tenant who wanted the property, and the question to be decided was what he would pay for it. The Tribunal decided that compensation must be paid at the rate of £1,400 per annum, and ordered the authority to pay the claimant's costs.

Post-War Housing

THE Minister of Health gave some important housing figures when he addressed the annual conference of the Urban District Councils Association on 17th January. After referring to the short-term programme of the Government for the building of 100,000 permanent new houses in the first year following the defeat of Germany, and 200,000 in the second year, and the supplementary provision of temporary houses, Mr. WILLINK said that the first job was the preparation of programmes. Local authorities were asked nearly two years ago to review their needs and draw up programmes: 1,446 out of a total of 1,468 housing authorities in England and Wales had done so and their programmes covered over a quarter of a million houses. The urban district councils were honourably represented in these figures—566 out of a total of 572 have sent in programmes for 67,000 houses. They were well under way with sites. Twenty-four thousand acres were now in the possession of the housing authorities, with a further 29,000 to be acquired. Urban district councils owned 5,300 acres, with a further 8,000 to be acquired. These achievements of public enterprise need emphasis to-day, when so much depends on the speedy provision of good types of dwelling-houses. The precise structure of local government authorities, as the Minister rightly pointed out at the close of his speech, is only important in order to secure "an organisation which by its fitness for its purpose will attract administrators of the right type, will give them proper scope for their activities, and will ensure fruitful results."

Conditions of Employment

Two amendments to the Conditions of Employment and National Arbitration Order, 1940 (No. 1305), are contained in an Amendment Order (No. 1437) made by the Minister of Labour and National Service on 5th December, 1944, under reg. 58AA of the Defence (General) Regulations, 1939. That regulation empowered the Minister of Labour to make provision by order with a view to preventing work being interrupted by trade disputes. The order of 1940 set up a National Arbitration Tribunal and empowered the Minister to refer to it any trade dispute or matter arising out of a trade dispute. It made strikes and lock-outs illegal unless the dispute was reported to the Minister and at least twenty-one days had since elapsed without his referring it to the tribunal. Both parties are required by Pt. III of the order to observe the recognised terms and conditions of employment, or such terms and conditions of employment as are not less favourable than the recognised terms and conditions, in any trade or industry in any district. Departures from such terms and conditions might be notified to other employers and organisations affected, and sent with their replies to the Minister. The "recognised terms and conditions" are those which have been settled by machinery of negotiation or arbitration to which the parties are employers' organisations and trade union representatives respectively, or substantial proportions of employers and workers engaged in that trade or industry in that district. The new order amends Pt. III of the principal order by providing that (1) questions arising under Pt. III of the order must be reported to the Minister within twelve months of the date

on which the question first arose; and (2) where the National Arbitration Tribunal is satisfied that the employer was aware of the recognised terms and conditions and also was aware or ought to have been aware that those conditions should have been observed by him, the award of the Tribunal shall be made retrospective to the employer's "date of knowledge."

Essential Work: Notice of Termination

AN interesting amendment of the Essential Work (General Provisions) (No. 2) Order, 1942, is contained in a new order made on 22nd December, 1944 (S.R. & O., No. 1467). Under the Order of 1942 notice to terminate the employment of a specified person in a scheduled undertaking may be given by either party before the permission of a national service officer has been granted, and if the notice has expired the granting of permission enables the employment to be terminated at once. According to an explanatory note appended to the new order, its purpose is to provide that the permission, when granted, will not be effective until at least seven days after the application for permission has been received at a local office. This applies to permission both to terminate and to leave a particular employment. The permission must include a statement of the date on which it is to take effect. The importance to employers is, of course, that an employee who has been dismissed without the permission of the national service officer continues to be entitled to his wages until he obtains employment elsewhere. It is consequently important, if it is desired to terminate a servant's employment, not only to give notice, but also to apply to the employment exchange at the earliest opportunity. The new order does not mean that the employer can give less than the contractual notice; the employee's right to his contractual notice is expressly preserved in the 1942 Order, which provides for a minimum notice of seven days.

Recent Decisions

In *Woodward v. The Governors of Hastings Grammar School*, on 11th January (*The Times*, 12th January), the infant plaintiff in January, 1942, had slipped on a frozen step at school, but had failed in his action for damages against the governors of the school, on the ground that they were a public authority and the action was barred under s. 21 of the Limitation Act, 1939. He, however, succeeded on appeal on the ground that the governors were not carrying out a public duty, although executing a charitable trust, and the case was remitted to HALLETT, J., to assess the damages. HALLETT, J., assessed the damages at £900.

In *Great Western Railway Company v. Royal Norwegian Government*, on 15th January (*The Times*, 16th January), ATKINSON, J., held that the plaintiffs were entitled to payment under a towage contract with the defendants of a sum of £126 9s. 10d. which the plaintiffs had paid by way of settlement of a claim in respect of the loss of the life of one of their employees, happening in the course of and as a result of the towage operations. His lordship held that the clause providing that the tugowner should not be liable for loss of life arising from any cause and that the hirer should pay for all loss of life and indemnify the tugowner against all consequences thereof could not be wider. The contract was made under the United Kingdom Towage Conditions.

In a case before the Divisional Court (HUMPHREYS, SINGLETON and CROOM-JOHNSON, JJ.), on 18th January (*The Times*, 19th January), it was held that by the terms of contract between milk producers and the Milk Marketing Board, the property in the milk did not pass to the Board until it reached the place where it was to be delivered, i.e., usually at the wholesaler's or retailer's premises. This was in spite of the fact that producers were directed under the contract to deposit milk for collection by carriers employed by the Board, generally at some place on the highway near the producer's farm. The purpose of the direction was to make the producer continue to be responsible for the condition of the milk which had been taken out of his possession and control.

TRUSTS FOR SALE AND POWERS TO POSTPONE

TRUSTS for sale are at the present moment popular. People are afraid of strict settlements with their paraphernalia of vesting instruments, declarations as to who are the trustees of the settlement, etc., whereas a conveyance on trust for sale is simple enough, and the proceeds of sale are personalty, which can be settled by the more familiar personalty settlement. Strangely enough, an estate can be made less likely to be sold when there is a trust for sale than under a strict settlement. Any attempt to forbid a tenant for life to exercise any power under the Settled Land Act, 1925, is deemed to be void (s. 106; *Re Orlebar* [1936] 1 Ch. 147), whereas if the trust for sale is exercisable with the consent of a third person there are at least three persons, namely, the two trustees and the third person, who must agree to the sale before it can be effected. If there is a trust for sale without the consent of any third person, the trustees should have a power to postpone the sale or they might be held bound to sell forthwith or be liable to their *cestuis que trust* if they did not do so. In the case of land, a power to postpone sale is implied unless a contrary intention appears (Law of Property Act, 1925, s. 25 (1)), and it can be postponed for an indefinite period (*ibid.* (2)). This does not apply to personalty other than leaseholds, so where real and personal property are given together to trustees for sale, as is usual in residuary gifts, a power to postpone the sale is generally given (see 2 "Key & Elphinstone's Precedents," 14th ed., p. 876; 3 "Prideaux's Precedents," 23rd ed., p. 733). A difficulty naturally arises if the trustees differ among themselves as to whether the sale should be effected or postponed. Supposing that there are four trustees and three are opposed to a sale, and the fourth is in favour of it, is the property to be sold or not? It obviously must either be sold or not sold. Some draftsmen provide for this difference of opinion by directing that the opinion of the majority of the trustees shall prevail (see a form in the "Encyclopædia of Forms," 2nd ed., vol. 18, p. 767), but that is unusual, and there may be only two trustees, so that there can be no majority. In *Re Hilton* [1909] 2 Ch. 548, the testator bequeathed to four trustees the residue of his personal estate upon trust to sell with power to postpone the sale. Two of the trustees wished to retain some investments and two wished them to be sold. A summons was taken out for the direction of the court. Mr. Justice Neville said: "I think that where in a will there is a trust for the conversion of the personal estate with a power to retain investments, . . . in the absence of unanimity between the trustees as to the retention of investments, the trust for sale operates and must be carried into effect." If we may respectfully say so, this is clearly right; the primary trust is to sell, and a power is given to stop the sale and the power cannot in the circumstances be exercised. Accordingly the trust for sale remains in force.

In *Re Mayo* [1943] Ch. 302, the testator devised freehold property to his son and daughter and another on trust for his son and daughter in undivided shares. The son requested his co-trustees to exercise the statutory trust for sale, but they refused to do so. The court has power under the L.P.A., 1925, s. 30, in such a case to direct the trustees to sell and

"the court may make such order as it thinks fit." It will be observed that the property was held on the statutory trusts, not an express trust for sale, with the statutory power of postponement. Mr. Justice Simonds (as he then was) said that he must exercise the same discretion as is exercisable by the court in the case of an instrument containing an express trust for sale, and "the trust for sale will prevail, unless all three trustees agree in exercising the power to postpone." He accordingly directed the trustees to concur with the testator's son in taking all necessary steps for the sale of the property.

Englishmen are not, as a nation, very logical, and they certainly are not so on the question of conversion of land into money. In the notes on *Fletcher v. Ashburner* in White and Tudor's Leading Cases (9th ed., vol. 1, p. 306), it is stated that "the direction to convert either money into land or land into money must be imperative; for if conversion be merely optional the property will be considered as real or personal, according to the actual condition in which it is found." How can it logically be said that the direction to convert is imperative, when it can be postponed indefinitely? But we have the authority of the Court of Appeal in *Re Kempthorne* [1930] 1 Ch. 268, that it is so. That is a strong case, as the result of the conversion was that the undivided shares went to the legatees of the personalty, instead of to the devisees of the real estate, which was rather hard on the latter.

Apparently, the parties entitled to the undivided shares can prevent a sale by appropriate covenants between themselves. Thus, in *Re Buchanan-Wollaston's Conveyance* [1939] Ch. 738 several persons purchased a piece of land which was conveyed to them as joint tenants, that is, upon trust for sale (L.P.A., 1925, s. 36). Soon after these persons entered into a deed of covenant which recited that that piece of land "was purchased by them with the object of securing that it should not be used in any manner which might be a nuisance or annoyance or cause any detriment to or depreciation in value of their said properties," which adjoined or were near to the purchased land. There were mutual covenants as to part of that land that in connection with it any transaction must be unanimously agreed to by all the parties to the deed, and as to other part any question as to it must be determined by a majority vote. The plaintiff, having sold his neighbouring property, desired the joint land to be sold, but one of the joint tenants refused to concur in the sale, and in this he was supported by the other defendants. The primary trust was a trust for sale, but in spite of that the Court of Appeal, affirming Farwell, J., held that they would not aid one of the parties to break his covenant by ordering on his application a sale of the land. But one naturally inquires how can a trust be imperative when the court refuses to enforce it? It should be noted that s. 30 above mentioned applies also when "any requisite consent cannot be obtained." A case in point is *Re Beale's Settlement Trusts* [1932] 2 Ch. 15, where the person whose consent was necessary for the sale refused to give it, and Maugham, J., directed a sale. But he had also jurisdiction to do so by virtue of that useful provision contained in s. 57 of the Trustee Act, 1925, by virtue of which the court can confer on trustees useful powers.

A CONVEYANCER'S DIARY

1944 CHANCERY—IV

REFERENCE has already been made in this series to *Re Hill* [1944] Ch. 270, which is the most important case of the year in connection with annuities, and should go some way to resolve the tangle into which we were getting as regards those cases where a testator gives annuities but over-estimates the income of his estate. Another important case about annuities is *Re Hooper* [1944] Ch. 171. There the testator had provided, so far as material, "I give free of all duty to S an annuity of £520 during her life such annuity to begin from the date of my death and to be paid free of all deductions

whatever by equal monthly payments the first of which shall be paid one month after my death." The executors asked whether this annuity was free of income tax. The annuitant contended that that was so, relying on *Re Cowlshaw* [1939] Ch. 654, where Bennett, J., had decided that such was the effect of words stated by Uthwatt, J., to be indistinguishable from those in *Re Hooper*. In a reserved judgment Uthwatt, J., held that he ought not to follow *Re Cowlshaw*, which was against the current of authority, despite the fact that in the circumstances the phrase "free of all deductions"

would be meaningless unless it had reference to freedom from income tax. He noted that there was not a very full citation of authority in the argument in *Re Cowlishaw*, and also that Bennett, J., himself had later observed upon that case. The decision in *Re Cowlishaw* had been much criticised, and it appears now to be quite safe to advise on the footing that it will not be followed. As Uthwatt, J., said: "If a testator means a specified annuity to be received clear of income tax, he should say so in express terms, and not use a general formula."

As regards s. 25 of the Finance Act, 1941, the most important case of the year was *Re Sebag-Montefiore* [1944] Ch. 331, in which the Court of Appeal considered the effect of a codicil made after the outbreak of war confirming a pre-war will whereby the testator gave annuities free of income tax. *Re Sebag-Montefiore* was the subject of the "Diary" of 26th September, 1944, and at present I have nothing to add to what was there said. *Re Bird* [1944] Ch. 111, was another case on s. 25. The testator left to his wife during widowhood the income of a fund, and directed that if in any year the amount received by her in respect of such income should amount, after deduction of tax at the current standard rate, to less than £500, enough capital was to be realised to make up her net receipts to £500. The testator died in 1932 and the net income did fall short of £500 each year. The question was how s. 25 applied to such an arrangement as this in the years when income tax was at 10s. in the £. More specifically, the issue was whether the amount by which the net income fell short of £500 was a "stated amount," within the wording of that section. In a reserved judgment Uthwatt, J., held that it was, relying on that part of the decision in *Re Hawkins* [1943] Ch. 67, in which Farwell, J., held that a bequest to the testator's wife so long as she and any of his dogs and horses were alive for the keep of such dogs and horses, the amount of the bequest being so much for each such dog and horse, was a bequest of a "stated amount."

Dudley v. Dudley [1944] K.B. 264, was a decision of the Court of Appeal on that part of s. 25 which says that the section is to apply to a provision for tax-free payments made before the outbreak of war and which "has not been varied on or after that date." In a separation deed of 1932, the husband had covenanted to pay the wife such a sum as would after deduction of tax leave 35s. a week. There was a muddle over the effect of this provision on the parties' income tax allowances, and, after conferring with the inspector of taxes, the parties entered into a supplemental deed dated 20th September, 1939, under which they reiterated that the intention was that the wife should have 35s. a week net, and agreed on certain steps to clear up the muddle. Upholding the decision of Croom-Johnson, J., the Court of Appeal held that the supplemental deed, though it might have confirmed, did not vary, the provision of the original deed for the payment of a stated amount. Thus s. 25 applied. It is not altogether easy to see the real purpose and effect, so far as instruments *inter vivos* are concerned, of the reference in the section to variation. If A covenanted with B in 1930 to pay him £100 a year and a further deed of 1940 between A and B provides that the amount shall be £140, then the covenant to be sued upon is that of 1940, there having been a novation. On the other hand if A covenanted with B in 1930 to pay him £100 a year and a further deed of 1940 between A and B "confirms" the obligation to pay £100 a year, the "confirmation" can be one of two things: either it can be declaratory of rights under the deed of 1930, a nullity in fact, or it can be a substituted identical covenant, a novation.

Before passing from consideration of s. 25, I should like to mention a point suggested by a correspondent, arising out of *Re Sebag-Montefiore*. As things stand, a will executed before the war, containing a bequest of a tax-free annuity, is affected by s. 25 whenever the testator dies, and whether or not the will was confirmed by codicil after the outbreak of war (unless the codicil varied the annuity provision of the will, in which case it is anyhow the codicil and not the will that is the dispositive document). In the early days of the war,

including a period right down to the passing of the Finance Act, 1941, the full scale of war-time income tax was not universally realised and many people were too busy to alter their wills. The existing rule thus seems reasonable in respect of the wills of testators dying before, say, 1st January, 1942. But is it still reasonable for testators dying now? The rule cuts across the usual principle that a will speaks as at the death of the testator, because a testator dying in 1945 leaving a pre-war will cannot reasonably be treated as if it was *per incuriam* that he left his dispositions unaltered. For nearly four years it has been evident that income tax was going to be at least 10s. in the £. In my submission the policy of the section should be reconsidered when the next Finance Bill is brought in. It is presumably too late to enact that the section shall not apply to the testamentary dispositions of persons dying after 1941, but it could well be provided that it shall not apply in respect of deaths after 30th June, 1945. If people have for so long failed to alter their wills despite the 10s. rate of tax, they presumably mean what their wills say.

In connection with wills, it may be of some interest to note the effect of the phrase "probate valuation," as explained in *Re Eumorfopolos* [1944] Ch. 133. That case concerned the estate of a testator who died in December, 1939, leaving a collection of works of art, plate and so on, much of which was in his house. The will bequeathed to the widow "such of the contents of my house as my wife shall select up to the value of £10,000 taken at the probate valuation." The contents of the house were valued for probate purposes at rather less than £10,000, including certain articles which were exempt from duty, while remaining unsold, as works of art, under s. 40 of the Finance Act, 1930. The widow selected the whole contents of the house. In July, 1940, a considerable part of these were sold at a price about three times that put on them in the valuation; it was suggested that this rise was partly due to the increased fear of inflation between December, 1939, and July, 1940, an argument to which the Revenue gave some recognition when it came to fixing the sums on which duty was to be paid. The court was asked to decide whether the reference to "probate valuation" in the selection clause meant the valuation for purposes of probate, or the value at which the things were actually sold. Simonds, J., decided that it meant the valuation made for purposes of probate; the ground of his decision was that no one could foresee when sale would take place, especially of the works of art excepted from duty, and the widow's right to select could not be kept open for an indefinite period.

In *Re Eumorfopolos* a question also arose whether the gift of "contents" of the house included various things not actually in the house at the date of the testator's death. The first of such items was a set of gold plate normally kept at the bank but brought to the house on special occasions and put with the rest of the collection for purposes of exhibition. Simonds, J., held that it was not part of the "contents" as there was no evidence to show that it was ever in or near the house except for the single purpose of exhibition on special occasions. The second group of items were things usually kept at the house but removed to the country for safety on the outbreak of war. These things were held to be part of the contents. This question is one which frequently arises in practice, often in much humbler cases, and it is a good thing that there is now an authoritative pronouncement upon it. Finally, there were various articles which had been sent to America for exhibition. It was held that such of them as were normally kept in the house continued to be part of its "contents" for the purposes of the legacy, despite their temporary absence.

In regard to dispositions of small articles of great value, the Court of Appeal, overruling Uthwatt, J., held in *Re Whitby* [1944] Ch. 211, that cut but unmounted diamonds were "jewellery" within Administration of Estates Act, 1925, s. 55 (1) (x), and so passed under a gift of "all my personal chattels" as defined by that section. The point argued was

whether "jewellery" must necessarily be something "made up to wear." The court, following the shorter Oxford Dictionary, said that it includes "jewels collectively" and "gems sold by jewellers." It was not necessary to decide what the position of uncut diamonds would be, and this point was not in fact dealt with in *Re Whilby*.

Re COMPTON

IN the second article of the present series, I discussed *Re Compton* [1944] Ch. 378, a decision of Cohen, J., that a

perpetual trust to provide close scholarships available to descendants of three named persons was a valid charitable trust. The case has now been to the Court of Appeal [1945] W.N. 14, where the appeal of the next of kin was allowed. The available report is, unfortunately, so short that the grounds of the judgment are not very clear, and it does not state whether leave to appeal to the House of Lords was asked for or granted. Until the position is a good deal clearer, therefore, the device used by the testatrix in this case should not be imitated.

LANDLORD AND TENANT NOTEBOOK

"LET AS A SEPARATE DWELLING."

WHEN writing on the meaning of "lawfully sub-let" in the "Notebook" for 13th January (89 SOL. J. 18) and discussing the Scots case of *Marwick's Trustees v. Harlick* (1937), S.L.T. (Sh. Ct.) 9, I briefly mentioned a difference of opinion between the sheriff substitute and the sheriff who heard that case which did not, as it happened, affect the final decision. The former, who had found that the defendant in the case had occupied a room in a flat and had the use of its bathroom and kitchen jointly with the tenant, the defendant paying half the rent and half the taxes, had held that no sub-tenancy resulted, the defendant and his family being merely lodgers. The learned sheriff disagreed, largely influenced by the consideration that the defendant had his own furniture.

This type of question is, of course, an old one, and it has now played a decisive part in quite a different question under the Increase of Rent, etc., Restrictions Acts, in *Neale v. Del Soto* (1944), 61 T.L.R. 145 (C.A.). For, in somewhat similar circumstances to those of the above case, it has been held that the occupier of part of a controlled house had no right to have the rent apportioned.

The respondent in the recent case was tenant of a house within the Increase of Rent, etc., Restrictions Acts. The standard rent was 30s. a week; the accommodation consisted of two sitting rooms, four bedrooms, a conservatory, a kitchen, a bathroom, a lavatory, a coalhouse, and a garage. He let to the applicant one small sitting-room and one bedroom (on different floors); he retained exclusive possession of the other sitting-rooms and bedrooms; the conservatory, coalhouse, lavatory, bathroom, kitchen and garage were used in common. The applicant asked for apportionment of rent under s. 12 (3) of the Increase of Rent, etc., Restrictions Act, 1920, basing his claim on *ib.* (2) and (8): "This Act shall apply to . . . a part of a house let as a separate dwelling," and "Any rooms in a dwelling-house subject to a separate letting . . . as a dwelling shall . . . be treated as a part of a dwelling-house let as a separate dwelling." The county court judge dismissed the application, and his decision was upheld by the Court of Appeal.

The reasoning was that there was, as far as the Act was concerned, only one letting; the two rooms were not, despite the statutory definition, part of a house let as a separate dwelling. "It would, in my opinion, be a misuse of language to say that the two rooms and nothing more were let as a separate dwelling. The real substance of the matter is that there was a sharing of this house . . . Strange results might follow if we were to find that a letting such as this was the letting of the two rooms as a separate dwelling; for instance, if the owner of a house let out to a tenant an attic bedroom with the right to use jointly with the landlord all the other rooms in the house, I think it might be said that there was a letting within the Act; that there could be apportionment within the Act; and that a statutory tenancy would arise of the single attic bedroom plus these rights," said Morton, L.J.

I have quoted the above passage to show that the *ratio decidendi* was not that there was no tenancy at all (as earlier parts of the judgment might suggest), but rather that the tenancy was not a tenancy of a dwelling-house for the purposes of the Acts. The judgment clearly implies that a person in the position of the applicant in *Neale v. Del Soto*, though not

a mere licensee, is not the tenant of a dwelling-house within the meaning of the Increase of Rent, etc., Restrictions Acts, and is not entitled either to the benefit of the provisions restricting rent contained in those Acts, or to the security of tenure which they confer on tenants.

Where is the line to be drawn? It was urged in argument that if the landlord's contentions were sound, a letting of two rooms with the use in common with the landlord of, for instance, a w.c., would be outside the Act. Dealing with this suggestion, Morton, L.J., said he was content to leave that matter to be dealt with if, and when, it arose; but it might be—he expressed no view on the matter—that this question was a question of degree; in the case before the court "a very substantial part of the dwelling" was shared, including such a very important room as the kitchen.

I think it is fair to say that the result of this new decision will be to create much doubt where none was experienced before. Many parties to agreements by which parts of houses are sub-let, who assumed that the lettings were controlled, will be wondering how they stand. When one considers the express provision in s. 12 (8) of the 1920 Act: "Any rooms in a dwelling-house subject to a separate letting wholly or partly as a dwelling shall, for the purposes of this Act, be treated as a part of a dwelling-house let as a separate dwelling"; when one recalls how subs. (3), if declaratory, was enacted in order to prevent profiteering by protected tenants and thus remove grievances felt by both their tenants and their landlords; and when one contemplates the vast number of houses, particularly in our larger towns, which were constructed to accommodate one family but are shared by several such units, one feels that the reasoning of this new authority is slightly artificial.

On the other hand, support can be found for it on these lines. It is true that the grantor of a tenancy may grant, and the grantee acquire, incorporeal as well as corporeal hereditaments under the grant. It may be that "separate rooms" may be separated in point of space from one another, as far as s. 12 (8) is concerned. But what the subsection demands is that the separate rooms shall not only be subject to a separate letting, but to such separate letting as a dwelling; and the view of the Court of Appeal (note the " . . . and nothing more ") appears to be based on the proposition that man does not, as it were, dwell by shelter alone: a sitting-room and bedroom cannot be a dwelling, though they satisfy some of the essential requirements; hence the importance attached to the use of the kitchen. For, if the non-committal observations made by Morton, L.J., are to be taken as an indication, it is not only the quantity but the quality of the incorporeal hereditaments which will have to be taken into account when considering whether they are "substantial."

The most difficult decision to reconcile with the new case is, I think, that of *Smith v. Prime* (1923), 67 SOL. J. 557, in which it was held that reconstruction by way of conversion into two or more separate and self-contained flats could be effected, though in the result each did not contain within its own ambit all the accommodation necessary to make a separate dwelling-house according to the requirements of the law and the appropriate standard of convenience. Morton, L.J., considered

that this decision was of no assistance, as it was on different words in a different subsection. It may well be answered that the court which decided it certainly took the view that a dwelling-house might be constituted by exclusive occupation of less accommodation than was necessary for the

purpose of dwelling plus rights in other accommodation, regardless of proportion; as against that it so happens that in *Smith v. Prime* each flat had its own kitchen, and all that was used in common was the staircase and a bathroom with sanitary accommodation.

TO-DAY AND YESTERDAY

LEGAL CALENDAR

January 22.—On the 22nd January, 1552, soon after eight in the morning, the great Duke of Somerset was beheaded on Tower Hill before a vast throng. The royal guard was there, armed with halberds. Other guards came from the liberties of the Tower, Limehouse, Whitechapel, St. Katherine's, Stratford, Hoxton and Shoreditch. The two sheriffs were also present. After the execution the body was placed in a coffin and buried on the north side of the choir of the chapel of St. Peter ad Vincula, between Anne Boleyn and Catherine Howard. A little before the Duke died, there was heard a great rumbling like the sound of cannon or of the hoofs of great horses, so that many people fell on the ground for fear, and there was a panic which interrupted his last address.

January 23.—On the 23rd January, 1846, Bryan Seery was tried at Mullingar for discharging a loaded gun at Sir Francis Hopkins one night in the previous November. Sir Francis positively identified him as the man who had shot at him and whom he had afterwards caught by the throat. The jury found a verdict of "guilty," and Seery was hanged. On the scaffold he lifted up a crucifix and in a calm, loud, steady voice declared that he had no part in the crime or knowledge of it.

January 24.—John Taylor Coleridge was appointed a judge of the King's Bench in January, 1835. In a letter to his father he tells how on the 24th January he dined with the Lord Chancellor, Lord Lyndhurst, "and as I rolled away in my own carriage, I could not but think with gratitude, and yet a sense of trembling too, what a change in my station and comforts a single week had made, and how I had attained the highest object to which my sober ambition as a man and all my wishes had long aspired."

January 25.—James M'Kean kept a public-house on the road from Glasgow to Lanark. About six one winter evening, James Buchanan, a carrier, arrived at his house. The landlord showed him a room and then suddenly cut his throat with a razor and robbed him of his watch and a considerable sum of money. Alarmed by the noise Mrs. M'Kean came to the door, and seeing the blood, shrieked "Murder!" on which her husband ran off. He was arrested at Lamlash on the Isle of Arran with Buchanan's watch and pocket book containing over £100 in bank notes still in his possession. The Glasgow populace showed great joy at his capture. He was convicted of murder and hanged at the Cross of Glasgow on a newly erected gibbet on the 25th January, 1797.

January 26.—When Frank Lockwood left Cambridge his career was undecided. He did not wish to be a clergyman or a doctor. He toyed with the idea of entering the Civil Service. Meanwhile he spent a period as tutor to a young gentleman in Cheshire. After that his father sent him to London to look round. There he made contact with old friends, most of them reading for the Bar, and a visit to one named Foster determined him then and there to become a barrister. He telegraphed for £100 by return, and his father, though somewhat taken aback, sent it. Having paid the necessary fees, he became a student of Lincoln's Inn in April, 1869. At first he was attracted to equity drafting, and he spent a little while as a pupil of Mr. Daune. These studies subsequently provided much material for mirth in common law chambers in Dr. Johnson's Buildings. "There was a standing desk in the room to which, when times were dull, he would spring, and taking a copy of the Law Reports, would select one of those Chancery head-notes which are the despair of the common law tyro," wrote one of his friends there. "I can well remember being kept in fits of laughter for nearly twenty minutes while he enlarged on the wickedness

of an executor *de son tort* venturing to interfere with the marshalling of assets." He was called to the Bar on the 26th January, 1872, won by his high spirits and good humour a universal popularity, became Solicitor-General and died while still at the height of his powers.

January 27.—On the 27th January, 1678, Sir George Jeffreys became a Bencher of the Inner Temple. He had just been appointed Recorder of London and been made a King's Counsel. In a very few years he was first Lord Chief Justice and then Lord Chancellor. In 1687 the Inner Temple commissioned Kneller to paint his portrait at a cost of £50 and it was hung in the Hall. After the Revolution of 1688 it was removed to the chambers of one of the Benchers, and in 1694 the Society made a present of it to his eldest son, the second Lord Jeffreys.

January 28.—On the 28th January, 1796, at about ten in the morning Michael Blanch, a Spaniard, James Colley, an American, and Francis Cole, a black, were taken to Execution Dock and hanged for the murder of William Little, the master of an American vessel, having been found guilty at the Admiralty Sessions at Newgate.

TRIALS OF THE JURY.

In a recent article in an evening paper a London magistrate called for "Justice for Jurors," recalling that Blackstone rightly called trial by jury one of the bulwarks of our liberties and deeming it strange that they should be treated with so little consideration in the matter of physical discomforts and needless sacrifice. Humphreys, J., he said, once suggested that they should have arm-chairs and desks and at least as much room as the prisoners in the dock. Still, their condition is much improved since the days when they were allowed during their deliberations neither meat, drink, fire nor candle. As late as 1758 Lord Mansfield felt obliged to ask the consent of the parties before allowing a jury candles. In Queen Elizabeth's reign there was once trouble over a jury which delayed its decision so long that the officers of the court made a search and found figs and pippins in the possession of some of the jurors. "For which the next day the matter was moved to the court, and the jurors were examined upon it upon oath. And two of them did confess that they had eaten figs. Three others said they had pippins but did not eat them. Those who had eaten were each fined five pounds." However, it was held that the verdict was not void, as the eating was at their own expense and not at that of the party. The incident had more than a touch of comedy in it, but the punishment of juries for returning unacceptable verdicts was beyond a joke. The imprisonment and fining of the jurymen who failed to convict Sir Nicholas Throckmorton in the reign of Queen Mary is well remembered, but the practice continued for more than another century. In one of his earlier essays G. K. Chesterton gave an account of his reflections when summoned to serve on a jury and in his own happy style expressed the true justification for the institution: "It is a terrible business to mark a man out for the vengeance of men. But it is a thing to which a man can grow accustomed . . . And the horrible thing about all legal officials . . . is simply that they have got used to it. Strictly they do not see the prisoner in the dock; all they see is the usual man in the usual place. They do not see the awful court of judgment; they only see their own workshop. Therefore, the instinct of Christian civilisation has most wisely declared that into their judgments there shall upon every occasion be infused fresh blood and fresh thoughts from the streets."

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of THE SOLICITORS' JOURNAL]

Cancer Research

Sir,—May I first record one thing that has impressed me in reviewing the past five years? It is, that such work as ours would have been at moments seriously restricted were it not for the secure and stable income provided by charitable bequests. We have indeed been assured, in some measure, that our work would continue through the war, because we could rely upon the abiding goodwill of an older generation. Certainly, the public at large have never failed to support us; but I would like to thank personally those members of the legal profession who have always, as opportunity arose, drawn the attention of their clients to the profound significance of the research work sponsored by the British Empire Cancer Campaign.

At the close of 1943 we could announce that, for the first time in the history of mankind, control has been discovered of one form of cancer, and it has now become clear that this opens up a wide field of fresh research. The prospect is hopeful, but it demands infinite patience from our team of scientific investigators.

I should be failing in my duty if I did not take every opportunity of begging my fellow men to help both themselves and their children to rid the world of cancer as speedily as possible. May I, then, once again suggest to you that you should have our work in mind, when you are asked to advise upon the disposition of bequests? It seems to me, if I may say so, that the closing phase of a great war beckons us back to the final conquest of the diseases that have plagued mankind from time immemorial.

HAILSHAM,

London, S.W.1.
11th January.

Chairman, Grand Council,
British Empire Cancer Campaign.

OBITUARY

MR. H. P. CHAPMAN

Mr. Henry Price Chapman, barrister-at-law, died on Friday, 12th January, aged eighty-five. He was called by the Inner Temple in 1891.

MR. A. W. DREW

Mr. Alfred William Drew, solicitor, of Messrs. Buckell & Drew, solicitors, of Newport, Isle of Wight, died recently. He was admitted in 1886.

MR. W. J. GEE

Mr. William Johnstone Gee, solicitor, of Messrs. Wm. Gee and Sons, solicitors, of Bishop's Stortford, died on Saturday, 13th January. He was admitted in 1888.

MAJOR S. M. GINN

Major Samuel Marsland Ginn, solicitor, of Messrs. Ginn & Co., solicitors, of Cambridge, has been killed in action on the Western Front. Major Ginn was admitted in 1938.

MR. J. GREEN

Mr. Josiah Green, LL.M., town clerk of Bristol, died suddenly in his office on Wednesday, 17th January. He was admitted in 1907, and had been in the service of the corporation for forty-nine years. He interested himself in the training of young lawyers and was special lecturer in local government law in the University of Bristol which, in recognition of these and other services, made him an LL.M. in 1942.

MR. M. K. JACKSON

Mr. Mark Keith Jackson, solicitor, of Messrs. Wilberforce, Jackson & Co., and Rowland & Hutchinson, solicitors, of Croydon, died recently aged fifty-two. He was admitted in 1929.

MR. H. I. MANDER

Mr. Harry Iliffe Mander, solicitor, of Messrs. Mander, Hadley and Co., solicitors, of Coventry, died recently, aged sixty-nine. He was admitted in 1897, and was the first Secretary and a past President of the Warwickshire Law Society.

MR. F. J. MANNING

Mr. Frederick John Manning, solicitor, formerly of St. Michael's House, Basinghall Street, E.C.2, died on Wednesday, 17th January, aged eighty-four. He was admitted in 1884.

MR. M. C. MATTHEWS

Mr. Marmaduke Capper Matthews, solicitor, of Messrs. G. F. Hudson, Matthews & Co., solicitors, of Queen Victoria Street, E.C.4, died on Saturday, 20th January, aged eighty-one. He was admitted in 1887.

MR. G. M. PRIOR

Mr. Gilbert Marshall Prior, solicitor of Messrs. Church, Adams, Tatham & Co., solicitors, of Lincoln's Inn Fields, W.C.2, died on Monday, 15th January, aged seventy-nine. In 1891 he was called to the Bar by the Inner Temple, and was admitted a solicitor in 1897.

SIR REGINALD ROWE

Sir Reginald Rowe, barrister-at-law, died on Sunday, 21st January. He was educated at Clifton College and Magdalen College, Oxford. From 1921 to 1937 he was Under Treasurer of Lincoln's Inn, and received the honour of knighthood in 1934. Sir Reginald was greatly interested in housing problems, and at the time of his death was President of the National Federation of Housing Societies. He was also Managing Governor of the Old Vic and Sadler's Wells, and President of the Economic Reform Club and Institute.

PERSONAL TRIBUTE

MR. C. L. NORDON

G. E. H. writes:—

With the death of Charles Nordon the legal world has lost an outstanding and perhaps unique personality. He was a man with a wide circle of acquaintance, but few, I fancy, were privileged to know the real Nordon. He was endowed with the crusading spirit in full measure. Abuses, evil in any form, must be exposed forthwith, however inopportune the moment. He was respected and feared throughout the City for his undying determination to expose financial chicanery, without respect to persons, in what he believed to be the interests of his clients and of the public at large. He was undaunted at a public meeting (even though he realised he was in a minority of one) if he thought his cause was just.

No man possessed a more erudite knowledge both of the theory and practice of the law in his own particular field. He was himself a forceful advocate, and frequently expressed himself strongly on the denial of audience to solicitors by the courts, particularly where counsel returned their briefs or were unable for any reason to appear.

The rights of shareholders and duties of directors under the Companies Acts were his especial province, and his name will long be associated with such cases as *Hudson Bay*, *Imperial Chemicals*, *Union Cold Storage* and *Gaumont British*, where he displayed his genius for the organisation and presentation of the views of dissident minorities.

Outside the law Nordon's interests were many and varied, although it was a mystery to those who knew the heavy burden of legal work he carried how he found the time.

He was a man of wide reading, full of story and quotation, and an inveterate pamphleteer on a variety of subjects.

Although, so far as I know, he professed adherence to no particular faith, he was a man of deep religious convictions, and in recent years the problems of world peace had greatly exercised his mind.

Amongst those who came more closely in touch with him Nordon's thoughtfulness and kindly but unobtrusive generosity have left an indelible impression.

It is right that those who knew Nordon only as a "bonny" fighter in the courts and an irrepressible critic at company meetings should know there was another side to his character. In an earlier and more forthright age he would have gone far. No man was perhaps more widely misjudged and misunderstood. He was indeed a doughty warrior in the realms of law, and the public are the poorer for his passing.

PRACTICE DIRECTION

LIABILITIES (WAR-TIME ADJUSTMENT) ACT, 1944, and LAND CHARGES ACT, 1925

Section 16 of the Liabilities (War-Time Adjustment) Act, 1944, states that a protection order or adjustment order which provides for the appointment of a Receiver of any land of a debtor, or charges any such land or vests any such land in a Trustee, may be registered in the Register of Writs and Orders affecting land kept at the Land Registry. To enable this registration to be made the Affidavit by the Company in support of the application should in future set out in a Schedule what (if any) land is owned by the Company and giving the following particulars which are required by the Land Registry, viz. County, Parish, Place or District and property known as (*giving short description*).

A. H. HOLLAND,
Chief Master.

5th December, 1944.

ANNUAL MEETING OF THE BAR

The annual general meeting of the Bar was held in the Old Hall, Lincoln's Inn, on 19th January, with the Attorney-General, Sir DONALD SOMERVELL, K.C., M.P., in the chair. In his opening address Sir Donald referred to the loss the Council had sustained by the death of Mr. J. H. Thorpe, K.C., who had served on it from 1920 to 1935 and from 1938 to the middle of 1944. Every member of the Bar, he declared, would give the fullest support to any scheme for extending the provision of legal advice and assistance to poor persons which might be set up after Lord Rushcliffe's Committee had reported. A special committee was collecting information with which to supplement as fully as possible the list of barristers away on war service or war work, with details of their service. The Inter-Allied Lawyers' Foyer provided by the British Council at 3, New Square, Lincoln's Inn, had held some interesting discussions between members of the professions of various nations. The Council had willingly accepted the invitation of the American Bar Association to participate in the formation of a new International Bar Association of a suitable character by those freedom-loving nations whose ideas as to the independence of the Bar accorded with those of the English Bar. Sir Donald drew attention to the long and interesting message from the Bar of Paris which had been received in March, 1944, but had not been published for fear that the Germans would take reprisals against its authors, but which was now given in full in the annual statement of the Council. In expressing gratitude to the Council for its work, he suggested that those members of the Bar who did not serve on it did not always realise the amount of work performed by those who did.

Sir HERBERT CUNLIFFE, K.C., Chairman of the Council, said he was sometimes a little puzzled by the want of appreciation of the Council's work shown by some members of the Bar.

After he had moved, and the meeting had adopted, the annual statement, a number of motions were considered. These took the form of instructions to the Council to investigate certain aspects of professional work in which the movers advocated reform. The Attorney-General declined to accept motions conveying instructions to the Council, on the ground that by the constitution of the Bar the framing of policy was entrusted to the Council itself. He offered, however, to admit the motions to discussion if they were amended to take the form of requests.

Mr. M. R. NICHOLAS's motion, in its original form, instructed the Council to appoint a committee to examine the present structure of government of the Bar and to consider means whereby control might be exercised by the members at large and otherwise brought into greater harmony with modern conceptions. Mr. Nicholas explained that, in his view, the whole legal system had gravely declined in the public esteem; the ordinary litigant could not afford its expense nor endure its delays, and it had ceased to be what it had been—the proper place where the rights of the people were protected against the State. This decline he attributed largely to the fact that the Bar was not self-governing. A self-governing Bar would, he asserted, have long since discovered some means of reforming the courts so as to restore them to their proper place in the national life. As things were, the public were never invited to criticise the courts or the Bar, and there had been a steady trend in modern legislation by which the jurisdiction of the courts was gradually transferred to the Civil Service Departments. Correspondence in *The Times* last summer complaining of expense and delay in litigation had brought no suggestion for remedy from the Bar. The recent proposals to take workmen's compensation out of the courts and put it under the control of a Minister had also gone unchallenged. A mere consultative and advisory body—for the Bar Council was nothing more—could not carry the weight which could be carried by the executive of a self-governing profession. The Bar had enough knowledge, interest and capacity to make the courts what they should be. If it were self-governing, it could possibly provide a cure for the very real evils of the present day.

The ATTORNEY-GENERAL replied that Mr. Nicholas's motion conveyed nothing of the intentions which he had explained in his speech. He suggested that Mr. Nicholas should prepare for the Council a full report stating precisely what he wished to be done. This, he thought, would be more useful than that the meeting should pass such a resolution.

Mr. STEPHEN MURRAY, seconding the motion, described the constitution of the Bar, so far as anyone knew what it really was, as anachronistic. Members were divided in opinion on whether reform ought to be postponed until serving barristers returned. To a suggestion that a new Council should be elected, the

Attorney-General and the Chairman of Council replied that the cost would be considerable and, with over 1,100 members absent, the poll would not be truly representative. The meeting agreed to Mr. Nicholas's motion in its amended form:—

"That the Bar Council be invited to consider the present structure of government of our branch of the legal profession."

Mr. L. ROUSE JONES, who desired to move that the Bar Council should ask The Law Society to form a joint committee to consider reorganising the legal profession, expressed what he alleged to be widespread dissatisfaction with the circuit system. A supporter declared that solicitors should have the right of audience in all courts.

The ATTORNEY-GENERAL pointed out that a joint committee of the Bar Council and the Council of The Law Society was already working on important common problems, and Mr. Jones withdrew his motion.

A motion by Mr. STEPHEN MURRAY inviting the Bar Council to continue its efforts towards providing legal aid to poor persons was accepted, as was another by Mr. F. A. AMIES concerning provision for barristers returning from war service.

The meeting concluded with the customary vote of thanks to the Attorney-General for presiding.

SOCIETIES

STUDY GROUP OF AUSTRIAN LAWYERS IN GREAT BRITAIN

The Study Group of Austrian Lawyers in Great Britain has recently completed the second year of its activity. The association, whose main purpose is to introduce its members into the knowledge of English law and to discuss topics of international and comparative law, has held during the last year seventeen meetings at which members of the British legal profession as well as lawyers from various Continental countries now residing in this country delivered lectures. The lectures were as a rule followed by lively and interesting discussions. Questions of English and comparative law included, e.g., the doctrine of "*Mens rea*" compared with the notions "*dolus*" and "*culpa*" used in Continental criminal law; the treatment of inventions by employees in English and Central European law; the "*jus gentium*" before English courts; the system of local government in this country; the development of the principle of freedom in English law, etc. Some speakers discussed problems of the law of conflicts, particularly in the field of the rules of succession, others spoke about principles of State succession. An interesting item dealt with the treatment of judgments delivered by German tribunals in occupied territories. A member of the United Nations War Crimes Commission discussed the many problems with which this Commission is concerned. Another lecturer introduced the audience into the every-day practice of an English family lawyer. Professor Goodhart explained some features of American law, whereas Professor Frankenstein developed his ideas regarding an European Code of Private International Law. The association is very much indebted to all speakers, and in the first line to the members of the British legal profession, who, in spite of heavy professional burden, dedicated their time to the interests of the association.

The chairman, Mr. Paul Abel, and the honorary secretary, Mr. S. Bondy, are gladly prepared to give any information desired.

BOOKS RECEIVED

Confessions of an Un-Common Attorney. By REGINALD L. HINE, F.S.A., F.R.Hist.B. 1945. pp. xix and 268. London: J.M. Dent & Sons, Ltd. 15s. net.

The Annual Charities Register and Digest. Fifty-second Edition. 1945. pp. 491. London: Longmans, Green & Co., Ltd.; Charity Organisation Society. 10s. 6d. net.

Paterson's Licensing Acts. Fifty-third Edition. By JAMES WHITESIDE, Solicitor of the Supreme Court and Clerk to the Justices for the City and County of Exeter. 1945. pp. cxvi, 1,530 and (Index) 182. London: Butterworth & Co. (Publishers), Ltd. 32s. 6d. net (Thick ed.); 36s. net (Thin ed.).

Mr. A. W. Large, retired solicitor, formerly of Leamington Spa, left £24,460, with net personalty £22,102.

Mr. H. Knight, barrister-at-law, of Axminster, left £16,356.

NOTES OF CASES

COURT OF APPEAL

In re Blake; Clutterbuck v. Bradford

Lord Greene, M.R., Finlay, L.J., and Uthwatt, J.
28th November, 1944

Solicitor—Charge for costs—"Property recovered or preserved"—

Meaning—Solicitors Act, 1932 (22 & 23 Geo. 5, c. 37), s. 69.

Appeal from Vaisey, J. (88 Sol. J. 399).

The appellants, a firm of solicitors, acted for one B, who was respondent in certain proceedings taken by trustees in the administration of the estate of a testatrix. In those proceedings, on the 20th July, 1943, a declaration was made that B's interest under the will had ceased, and it was ordered that his taxed costs should be paid out of the estate. These costs amounted to £38 13s. 3d., and had not been paid. On the 7th July, 1944, a garnishee order was obtained against B, garnisheeing these taxed costs in respect of a sum of £39 10s. 5d. due by B to the respondents on account of taxed costs owing by him in respect of an unsuccessful summons he had taken out in the matter of the administration of the same estate. By this summons the solicitors sought a declaration that they, as B's solicitors, were entitled to a charge on the £38 13s. 3d. due to him for taxed costs, as being "property recovered or preserved" by their instrumentality and that such sum might be ordered to be paid to them, notwithstanding the garnishee order. The Solicitors Act, 1932, s. 69, provides: "Any court in which a solicitor has been employed to prosecute or defend any suit, matter or proceedings may at any time declare the solicitor entitled to a charge on the property recovered or preserved through his instrumentality for his taxed costs in reference to that suit, matter or proceeding, and may make such orders for the taxation of the said costs and for raising moneys to pay, or for paying, the said costs out of the said property as they think fit, and all conveyances and acts done to defeat, or operating to defeat, that charge shall, except in the case of a conveyance to a bona fide purchaser for value without notice, be void as against the solicitor. . . ." Vaisey, J., held that costs were not "property recovered" within the section and dismissed the application. The solicitors appealed.

LORD GREENE, M.R., said whatever might have been thought if the question had come up for the first time the matter was, in his opinion, settled by *Dallow v. Garrold*, 14 Q.B.D. 543. That was a decision that a debt and costs were both properly described as "property recovered." It was argued that the present case was distinguishable on the ground that *Dallow v. Garrold*, *supra*, only covered a case where, in addition to the judgment for costs, there was a judgment for the recovery of some specific property or sum of money. Once it had been decided that costs were "property recovered," the principle must inevitably cover the case where costs were the only subject-matter of the judgment. *In Re Viney's Trust*, 18 L.T. Rep. 851, and *Higgs v. Higgs* [1934] P. 95, had been referred to by Vaisey, J. The first did not appear to touch the matter. In the second, Bateson, J., refused a charging order in favour of the solicitors. His judgment on this point was wrong and should be overruled. He (Lord Greene, M.R.) was of opinion that an application for a charging order in a case where the judgment was merely for costs was competent. If this were not so, the case of a solicitor for a successful defendant would be a very unfortunate one, as no property was recovered in the limited sense which the respondents wished the court to accept, since the only thing that the successful defendant got was a judgment for costs, and his solicitor would have no remedy. Turning to the suggested distinction in the case of a summons issued for the construction of a will or document, he was unable to see any ground on which a distinction could be based. An order was an order, and to draw a distinction between an order made on an originating summons and any other order for costs appeared, in principle, to be quite unjustifiable. The last point was that by the language of the section a solicitor was not entitled to his charging order as of right, but only as a matter of discretion. That was true. It was, however, right to say that, *prima facie*, a solicitor was entitled to his charging order, if he satisfied the requirements of the section and that some good reason must be shown for depriving him of it. It had been held that there might be some conduct of the solicitor which would make it unjust to give him that particular form of relief. In the present case it was contended that this would be a grave hardship on the respondents. It was said the fact that they had no right of set-off for their costs was purely accidental. The question which they had to decide was whether the respondents' misfortune was sufficient to justify them in withholding from the

solicitors the right to which they were *prima facie* entitled. He did not propose to assert as a matter of principle that the discretion should only be exercised against the solicitor in cases where some conduct of his made it unjust to give him the relief asked for. That would not be the proper course to take in view of the language of the section. He thought, however, he was entitled to say that in a case where no conduct of the solicitor was involved, it would require very exceptional circumstances to justify the court in refusing to the solicitor that security in respect of the fruit of his labours to which, under the section, he was *prima facie* entitled. In the present case he did not find any such circumstances. The appeal should be allowed.

FINLAY, L.J., and UTHWATT, J., agreed in allowing the appeal.

COUNSEL: V. R. Aronson; C. D. Myles.

SOLICITORS: Warren & Warren; Burton, Yeates & Hart, for Nye & Donne, Brighton.

[Reported by Miss B. A. BICKNELL, Barrister-at-Law.]

KING'S BENCH DIVISION

R. v. Durham, JJ., ex parte Laurent

Viscount Caldecote, L.C.J., and Humphreys and Birkett, JJ.
26th October, 1944

Criminal law—Justices—Breach of condition of recognisance—Recognisance forfeited by conviction—Whether appeal to quarter sessions against forfeiture—Meaning of "offence" and "conviction"—Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), s. 9 (2)—Criminal Justice Act, 1914 (4 & 5 Geo. 5, c. 58), s. 37 (1).

Motion for an order of mandamus to compel Durham Quarter Sessions to hear and determine the applicant's appeal. On 15th November, 1943, the applicant had been convicted by the Consett Justices and ordered to forfeit recognisance he had entered into on 23rd March, 1942, in the sum of £100 with two sureties of £50 each, with the condition that he should be of good behaviour, especially towards S, concerning whom he had been convicted of publishing a criminal libel. On 9th August, 1943, the applicant was charged at the same court with using abusive language towards a police officer, and he entered into a recognisance of £10 to be of good behaviour. On 15th November, 1943, the applicant was ordered to forfeit his recognisance of 23rd March, 1942, as he had been found guilty on 9th August, 1943, of a breach of the condition of his recognisance and the applicant was ordered to pay £100 to the clerk of the court on or before 13th December, 1943. Quarter sessions decided that they had no jurisdiction to entertain an appeal from that order. Under s. 9 (2) of the Summary Jurisdiction Act, 1879, on proof of conviction of an offence which is a breach of the conditions of a recognisance, the court may by conviction adjudge such recognisance to be forfeited. Under s. 37 (1) of the Criminal Justice Act, 1914, any person aggrieved by a conviction of a court of summary jurisdiction in respect of any offence, who did not plead guilty or admit the truth of the information, may appeal from the conviction in manner provided by the Summary Jurisdiction Acts to a court of quarter sessions.

VISCOUNT CALDECOTE, L.C.J., said that ordinarily, one would not describe the order made for the forfeiture of a recognisance as a conviction, but having regard to the place in which the words appeared in s. 9 (2) of the Act of 1879, the proper meaning of the word "conviction" was that it covered anything in the nature of a formal order. He had come to the conclusion, with some doubt, that the word "offence" in s. 37 of the 1914 Act meant an offence in the sense that it could be made the subject of a criminal charge. Quarter sessions were, accordingly, right in saying that they had no power to hear the appeal.

HUMPHREYS and BIRKETT, JJ., agreed.

COUNSEL: H. J. Astell Burt and C. L. Hauser; H. G. Garland.

SOLICITORS: Doyle, Devonshire & Co., for Molineux, McKeag and Cooper, Newcastle-upon-Tyne; Wrinch & Fisher, for Lazenby and Snowball, Consett.

[Reported by MAURICE SHARE, Esq., Barrister-at-Law.]

Jones v. Lowe

Hilbery J. 3rd November 1944

Principal and agent—Remuneration—Commission payable on introducing a purchaser—Ready and willing purchaser introduced—Principal withdraws property from sale before signing of contract to sell—Person introduced therefore not a purchaser—No right to remuneration—Contract reduced to writing by plaintiff—No quantum meruit.

Action for damages for breach of contract to pay a commission for introducing a purchaser for the defendant's house or alternatively for the sum of £86 5s., being reasonable remuneration for work done in connection with the introduction of a purchaser for the house.

By an oral contract of 30th July, 1943, the plaintiff agreed to find a purchaser for the defendant's house, and he confirmed the arrangement by letter of that date stating: "In the event of my introducing a purchaser I look to you for the payment of the usual commission in accordance with the scale fixed by the Auctioneers' and Estate Agents' Institute of the United Kingdom." On 28th December, 1943, the plaintiff introduced to the defendant, C, who was ready and willing to buy the house at the price stipulated by the defendant. On 10th February, 1944, C paid a deposit of £315, being 10 per cent. of the purchase price. On 17th February, 1944, the defendant's solicitors sent a draft contract to C's solicitors, but on 21st February, 1944, before the contract had been signed, C received a letter from the defendant, saying that she was withdrawing the property from sale, owing to domestic difficulties.

HILBERY, J., said that if he had been free of authority he would have thought that there were strong grounds for saying that what every owner of a house who desired to sell it expected a house agent to do was to keep a look-out for him and bring the property fairly to the notice of persons resorting to him for houses, and endeavour to persuade one of them to buy. If he introduced someone who was perfectly willing to go through with the purchase at a price which would satisfy the vendor, it would seem that the agent had done all that the parties contemplated that he should do. His lordship, however, did not feel that it was open to him to put that construction on the words of the contract in the present case, because the observations of Lord Russell of Killowen and Lord Romer and others in *Luxor (Eastbourne), Ltd. v. Cooper* [1941] A.C. 108, showed that the House of Lords was clearly of opinion that if an agent was employed to introduce a purchaser, and, short of that purchaser having entered into a binding contract, the house was withdrawn from the market, the agent could not say that he had earned his commission. (See *per* Lord Russell of Killowen, at pp. 125 and 129, and *per* Lord Romer, at p. 154.) The construction applicable could be summed up in a sentence: where a person chose to say "My commission will be payable on my introducing a purchaser," it meant that such commission would be payable only when someone whom he had introduced had actually purchased. As to the question whether, the plaintiff having failed under his contract, he was entitled to recover on a *quantum meruit*, where, as in the present case, a plaintiff had reduced the terms of his contract into writing and such terms had been accepted by the defendant, the authorities were overwhelming to the effect that there was no room for the implication of a term to pay a reasonable remuneration which would give the plaintiff in law a right to recover on a *quantum meruit*. There must be judgment for the defendant.

COUNSEL: E. H. P. G. Wrightson; L. J. Solley.

SOLICITORS: Ruland & Crauford, for C. R. Thomas & Son, Maidenhead; H. L. Lumley & Co.

[Reported by MAURICE SHARE, Esq., Barrister-at-Law.]

PARLIAMENTARY NEWS

HOUSE OF LORDS

Indian Estate Duty Bill [H.L.].

To authorise the imposition of Estate Duties in India and to make provision as to the distribution of the net proceeds thereof.

Read First Time. [17th January.

Law Reform (Contributory Negligence) Bill [H.L.].

To amend the law relating to contributory negligence and for purposes connected therewith.

Read First Time. [17th January.

Limitation (Enemies and War Prisoners) Bill [H.L.].

To provide for suspending the operation of certain Statutes of Limitation in relation to proceedings affecting persons who have been enemies or have been detained in enemy territory.

Read First Time. [16th January.

Nurses Bill [H.L.].

To exclude county and district nursing associations and other similar organisations from the operation of Part II of the Nurses Act, 1943, and Part II of the Nurses (Scotland) Act, 1943.

Read First Time. [17th January.

Road Transport Lighting (Cycles) Bill [H.L.].

Read Third Time. [17th January.

HOUSE OF COMMONS

Export Guarantees Bill [H.C.].

To increase the limits imposed by the Export Guarantees Act, 1939, upon the liability which may be undertaken by guarantees given under s. 1 of that Act; to provide for the giving of guarantees for the purpose of encouraging the participation of the United Kingdom in external trade transactions; and for purposes connected therewith.

Read First Time. [19th January.

Representation of the People Bill [H.C.].

In Committee. [17th January.

Teachers (Superannuation) Bill [H.C.].

To amend the definition of contributory service for the purposes of the Teachers (Superannuation) Act, 1925, to extend the enactments relating to the superannuation of teachers to certain persons employed in connection with the provision of educational services otherwise than as teachers, and to make other amendments of the law relating to the superannuation of teachers and such persons as aforesaid.

Read First Time. [17th January.

Wages Councils Bill [H.C.].

Read Second Time. [16th January.

QUESTIONS TO MINISTERS

STATUTORY RULES AND ORDERS

SIR HERBERT WILLIAMS asked the Lord President of the Council how many Statutory Rules and Orders were issued in 1944; how many of these were printed; and for comparison, the corresponding figures for 1943.

THE FINANCIAL SECRETARY TO THE TREASURY (MR. PEAKE): I have been asked to reply. The number of Statutory Rules and Orders issued in 1944 was 1,479, of which 1,074 were printed in the Statutory Rules and Orders series. The corresponding figures for 1943 are 1,792 and 1,380. [17th January.

STATUTES OF LIMITATION

SIR R. GLYN asked the Attorney-General how many of the twenty-three recommendations of the Fifth Interim Report of the Law Revision Committee, Cmd. 5334, have been carried out; and what further alterations in the Statutes of Limitation have been made.

THE ATTORNEY-GENERAL: The Law Revision Committee's Report to which the hon. Member refers formed the basis of the Limitation Act, 1939, which embodied substantially all of the committee's recommendations. So far as I am aware, no further alteration to the Statutes of Limitation have been made; but I might refer my hon. friend to the Bill which has just been introduced in another place, and which proposes certain temporary amendments in this branch of the law necessitated by war conditions. [17th January.

POOR PERSONS RULES *

MR. DOUGLAS asked the Attorney-General when the regulations with regard to the admission of persons to sue as poor persons were last revised; and whether it is intended to amend them so as to take account of the present higher cost of living.

THE ATTORNEY-GENERAL: The last substantial revision of the Poor Persons Rules was made in June, 1942, in connection with the Services Legal Aid Scheme which was then being inaugurated. The Rules have since been amended in minor particulars. The question whether the Rules now require amendment in the sense suggested by my hon. friend is among the matters at present under consideration by the Committee sitting under the Chairmanship of Lord Rushcliffe. [17th January.

REPAIRS AND INCREASED RENTS

SIR WALDRON SMITHERS asked the Minister of Health if he is aware that following the Appeal Court decision in *Winchester Court, Ltd. v. Millar* [88 Sol. J. 234], landlords of men serving in the Forces are increasing rents by 12½ per cent. above pre-war, because they are liable for keeping the property in repair; that even where no such repairs are carried out by the landlords, the tenants cannot ensure that repairs are carried out or refuse to pay the increase if repairs are not carried out; and will he, by legislation, prevent landlords increasing the standard rent of premises above the amount fixed by the present Rent Restriction Act.

MR. WILLINK: My attention has been drawn to the case referred to, and I understand that representations concerning it have been made to the Inter-departmental Committee on Rent Control. As I have recently stated, the report of the committee is expected next month, and I will consider the matter in the light of their recommendations. [18th January.

WAR LEGISLATION

STATUTORY RULES AND ORDERS, 1944-1945

- No. 22. **Approved Schools.** Children and Young Persons (Contributions by Local Authorities) Regs. Jan. 10.
 E.P. 36. **Control of Building and Civil Engineering Contracting Undertakings** (Labour Returns) (No. 1) Order. Jan. 16.
 E.P. 30. **Control of Noise** (Defence) Order. Jan. 13.
 No. 12. **Customs.** Export of Goods (Control) (No. 1) Order, Jan. 9.
 E.P. 13. **Finance.** Regulation of Payments (Italy and Vatican City) Order, Jan. 11.
 No. 25. **Gas Fund** (Contribution) Order. Jan. 6.
 E.P. 37. **Lighting Restrictions** (Northern Ireland) Order. Jan. 16.

COMMAND PAPERS

Workmen's Compensation (Contributory Negligence). Interim Report of the Departmental Committee (Chairman: Sir Walter Monckton, K.C.V.O., M.C., K.C.) on Alternative Remedies. Dec. 5, 1944.

[Any of the above may be obtained from the Publishing Department, S.L.S.S., Ltd., 88/90, Chancery Lane, London, W.C.2]

NOTES AND NEWS

Honours and Appointments

Mr. JOHN SCOTT HENDERSON has been appointed Recorder of Portsmouth in succession to Mr. R. F. Bayford, K.C., who retired last November. Last year Mr. Scott Henderson became Recorder of Bridgwater, Somerset. Mr. Scott Henderson was called by the Inner Temple in 1927.

Miss L. B. M. Brooks, solicitor, has been appointed Assistant Solicitor to Derby County Council. She was admitted in 1939, and formerly held the office of Assistant Solicitor at West Bromwich.

Mr. E. F. J. Felix, deputy town clerk of Eastbourne, has been appointed Clerk and Solicitor to the Coulsdon and Purley U.D.C. He was admitted in 1933.

Notes

The Chief Justice of Queensland (Sir William Webb) recently watched proceedings in the Court of Appeal, which were presided over by the Master of the Rolls.

An ordinary meeting of the Medico-Legal Society was held at Manson House, 26, Portland Place, W.1, on Thursday, 25th January, 1945, at 4.45 p.m., when a paper was read by Hugh N. Linstead, O.B.E., M.P. (Secretary of the Pharmaceutical Society of Great Britain), on "The Pharmacy and Medicines Act, 1941, and the Sale of Proprietary Medicines."

Sir Malcolm Trustram Eve, chairman of the War Damage Commission and in charge of London's bomb damage housing repairs, has given his Chelsea home, 23, Ormonde Gate, to Chelsea Borough Council as a home for the bombed out. The Town Clerk said that it was a very fine gesture. The house is modern, with ten or twelve rooms, and will be adapted to accommodate two or three families.

At a recent meeting of the Nantwich Rotary Club, Mr. A. O. Bevan, solicitor, mentioned an interesting point concerning Sir Donald Somervell's parliamentary career. He said he looked up records covering a long period to find the average length of office of attorney-generals in this country, and he found that the average was from two to four years. It was a notable fact, commented Mr. Bevan, that Sir Donald Somervell had been the Attorney-General for nine years.

WAR DAMAGE—"PROPER COST"

The National Federation of Building Trades Employers has recently agreed with the War Damage Commission a special additional procedure for the settlement of disputes regarding "proper cost" in which members of the federation are concerned. Broadly, the scheme provides that in cases of dispute, members of the federation may refer the matter to an assessor appointed by the federation who, if satisfied, will take up the case for them with the Commission, and, if necessary, and the amount in dispute is £25 or more, recommend its reference to the Deputy Commissioner. The federation wishes to announce that wherever practicable, it will be open to federation's assessors to place their services at the disposal of non-federated builders without any charge or fee.

STOCK EXCHANGE PRICES OF CERTAIN TRUSTEE SECURITIES

Bank Rate (26th October, 1939) 2%

	Div. Months	Middle Price 22nd Jan. 1945	Flat Interest Yield	† Approximate Yield with redemption
English Government Securities				
Consols 4% 1957 or after	FA	110½	£ s. d. 3 12 5	£ s. d. 2 19 0
Consols 2½%	JAJO	82½	3 0 7	—
War Loan 3% 1955-59	AO	102½	2 18 6	2 14 3
War Loan 3½% 1952 or after	JD	104½	3 6 11	2 16 1
Funding 4% Loan 1960-90	MN	114	3 10 2	2 16 9
Funding 3% Loan 1959-69	AO	100½	2 19 6	2 18 7
Funding 2½% Loan 1952-57	JD	101½	2 14 3	2 11 1
Funding 2½% Loan 1956-61	AO	98½	2 10 9	2 12 4
Victory 4% Loan Av. life 18 years ..	MS	114	3 10 2	2 19 7
Conversion 3½% Loan 1961 or after ..	AO	107	3 5 5	2 18 10
Conversion 3% Loan 1948-53	MS	103½	2 17 10	1 12 6
National Defence Loan 3% 1954-58 ..	JJ	102	2 18 10	2 14 11
National War Bonds 2½% 1952-54 ..	MS	101½	2 9 5	2 6 9
Savings Bonds 3% 1955-65	FA	100½	2 19 8	2 18 11
Savings Bonds 3% 1960-70	MS	101	2 19 5	2 18 6
Local Loans 3% Stock	JAJO	95½	3 3 0	—
Bank Stock	AO	384½	3 2 5	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	96½	3 2 2	—
Guaranteed 2½% Stock (Irish Land Act 1903)	JJ	92½	2 19 6	—
Redemption 3% 1986-96	AO	99½	3 0 4	3 0 6
Sudan 4½% 1939-73 Av. life 16 years ..	FA	114	3 18 11	3 7 0
Sudan 4% 1974 Red. in part after 1950	MN	110	3 12 9	2 3 10
Tanganyika 4% Guaranteed 1951-71 ..	FA	106	3 15 6	2 17 11
Lon. Elec. T.F. Corp. 2½% 1950-55 ..	FA	98	2 11 0	2 14 4
Colonial Securities				
*Australia (Commonw'h) 4% 1955-70 ..	JJ	107	3 14 9	3 3 5
Australia (Commonw'h) 3½% 1964-74 ..	JJ	100	3 5 0	3 5 0
*Australia (Commonw'h) 3% 1955-58 ..	AO	100	3 0 0	3 0 0
†Nigeria 4% 1963	AO	114	3 10 2	3 0 6
*Queensland 3½% 1950-70	JJ	101	3 9 4	3 5 6
Southern Rhodesia 3½% 1961-66	JJ	104	3 7 4	3 3 6
Trinidad 3% 1965-70	AO	100	3 0 0	3 0 0
Corporation Stocks				
*Birmingham 3% 1947 or after	JJ	94½	3 3 6	—
*Croydon 3% 1940-60	AO	101	2 19 5	—
*Leeds 3½% 1958-62	JJ	102	3 3 9	3 1 5
*Liverpool 3% 1954-64	MN	100	3 0 0	3 0 0
Liverpool 3½% Red'mable by agreement with holders or by purchase ..	JAJO	105	3 6 8	—
London County 3% Con. Stock after 1920 at option of Corporation ..	MSJD	95	3 3 2	—
*London County 3½% 1954-59	FA	104½	3 7 0	2 18 11
Manchester 3% 1941 or after	FA	94	3 3 10	—
*Manchester 3% 1958-63	AO	100½	2 19 8	2 19 0
Met. Water Board 3% "A" 1963-2003	AO	98	3 1 3	3 1 5
Do. do. 3% "B" 1934-2003	MS	98½	3 0 11	3 1 2
Do. do. 3% "E" 1953-73	JJ	99	3 0 7	3 1 1
Middlesex C.C. 3% 1961-66	MS	101	2 19 5	2 18 5
*Newcastle 3% Consolidated 1957 ..	MS	101	2 19 5	2 18 2
Nottingham 3% Irredeemable	MN	94	3 3 10	—
Sheffield Corporation 3½% 1968	JJ	106	3 6 0	3 2 7
English Railway Debenture and Preference Stocks				
Gt. Western Rly. 4% Debenture	JJ	116½	3 8 8	—
Gt. Western Rly. 4½% Debenture	JJ	122½	3 13 6	—
Gt. Western Rly. 5% Debenture	JJ	134½	3 14 4	—
Gt. Western Rly. 5% Rent Charge	FA	136½	3 13 3	—
Gt. Western Rly. 5% Cons. G'rteed. ..	MA	133½	3 14 11	—
Gt. Western Rly. 5% Preference	MA	120½	4 3 0	—

* Not available to Trustees over par.

† Not available to Trustees over 115.

‡ In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.

"THE SOLICITORS' JOURNAL"

Editorial, Publishing and Advertisement Offices: 88-90, Chancery Lane, London, W.C.2. Telephone: Holborn 1403.

Annual Subscription: Inland, £3; Overseas, £3 5s. (payable yearly, half-yearly or quarterly in advance). Solicitors in H.M. Forces, special rate, £1 17s. 6d. per annum.

Advertisements must be received first post Tuesday.

Contributions are cordially invited and should be accompanied by the name and address of the author (not necessarily for publication).

5

1.
d

on

1.
0

3
1
9
7
1
4
7
10
6
11
9
11
6

6
0

10
11
4

5
0
0
6
6
6
0

5
0

11
0

5
2
1
5
2
7

d at

ery

rly.
cial

by
)